

LABOUR DEPARTMENT

The 21st January, 1977

No. 1653-5Lab-77/5943.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Cooperative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1969 to 31st July, 1970.

No. 1653-5Lab-77/5945.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of the 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Co-operative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1970 to the 31st July, 1971.

No. 1653-5Lab-77/5947.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Co-operative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1971 to the 31st July, 1972.

No. 1653-5Lab-77/5949.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Co-operative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1972 to the 31st July, 1973.

No. 1653-5Lab-77/5951.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Co-operative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1973 to the 31st July, 1974.

No. 1653-5Lab-77/5952.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Co-operative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1974 to the 31st July, 1975.

No. 1653-5Lab-77/5955.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Cooperative Distillery, Panipat from the operation of the said Act for a period of one year with effect the 1st August, 1975 to the 31st July, 1976.

No. 1653-5Lab-77/5957.—In exercise of the powers conferred by section 87 read with section 91-A of the Employees State Insurance, 1948 (Central Act 34 of 1948) and all other powers enabling him in this behalf, the Governor of Haryana hereby exempts the Panipat Cooperative Distillery, Panipat from the operation of the said Act for a period of one year with effect from the 1st August, 1976 to the 31st July, 1977.

The 14th February, 1977

No. 1002-4Lab-77/5001.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Shri Wazir Chand Sharma, Arbitrator, in respect of the dispute between the workmen and the Management of M/s Poly Plastics, Yamuna Nagar.

Arbitration Award given by Shri Wazir Chand Sharma, Labour Officer-cum-Conciliation Officer (Retired), House No. DC/149, Shivajee Park, Yamuna Nagar on 21st April, 1976.

An Industrial Dispute between Shri Surinder Paul, workman and the management of Messrs Polyplastics, O/15, Industrial Area, Yamuna Nagar was referred to the undersigned for arbitration,—vide Arbitration agreement, dated 5th November, 1975 under section 10-A of the Industrial Disputes Act, 1947. The Arbitration agreement was published in the Haryana Government Gazette Notification No. ID/AMB/276-75/5350, dated 2nd February, 1976.

Parties were called to appear before the undersigned on 5th April, 1976. Shri S. S. Mittal appeared on behalf of the management but no one appeared on behalf of the workman in spite of the fact that he was properly served. However, in order to give fair opportunity to the workman the parties were required to appear on 7th April, 1976. The procedure to be followed in the proceedings was discussed with the representatives of the parties on this date and the proceedings were adjourned for filing

of statement of claims on 16th April, 1976. Both the parties, however, showed some inclination to discuss the matter mutually for securing amicable settlement. The proceedings were adjourned for 21st April, 1976. On this date the parties filed a written settlement,—*vide* which the workman agreed to accept a sum of Rs 400 (Rupees Four Hundred only) in full consideration of all his service benefits including relinquishment of his right of re-instatement or re-employment in full and final settlement of all his claims. The settlement is enclosed in original.

There was, accordingly, no need left for processing the case further. The mutual settlement between the parties appeared to be reasonable and just to my mind and therefore, I give my arbitration award in accordance with the terms and conditions enumerated in the settlement dated 21st April, 1976 under section 18(1) of the Industrial Disputes Act, 1947.

WAZIR CHAND SHARMA,

Arbitrator,
Labour Officer-cum-Conciliation
Officer (Retired).

Memorandum of Settlement under section 18(1) of the Industrial Disputes Acts 1947 between Shri Shri Surinder Pal, son of Shri Sardari Lal workman and the management of M/s Polyplastics, Yamuna Nagar.

Present :

1. S. S. Mittal on behalf of the management of M/s Polyplastics, Yamuna Nagar.
2. S. Balbir Singh authorised representative of the workman Shri Surinder Paul.

Demand Notice dated 13th September, 1975

Whereas a dispute between Shri Surinder Paul workman and M/s Polyplastics was referred for arbitration of Shri W. C. Sharma,—*vide* Arbitration Agreement, dated 5th November, 1975. The parties to the dispute have mutually discussed the matter in dispute and arrived at a settlement on the following terms and conditions :—

1. The workman would be paid a sum of Rs 400 in full and final settlement of all his claims that is earned wages, service compensation, wages in lieu of unavailed period of leave and bonus for the years 1974-75 and 1975-76 up to date. The workman has agreed to relinquish his claim for reinstatement or re-employment in consideration of the above payment. This agreement finally resolves all claims/disputes against the management of M/s Polyplastics, Yamuna Nagar.

The payment would be made within a week from the date of signing the settlement.

Witnesses :

1. (Sd.) . . .
21/4/76.

(Sd.) . . .
Signature of the representative of the
management of M/s Polyplastics.

2. (Sd.) . . .
21/4/76.

(Sd.) . . .
Signature of workman or his authorised
representative.

Dated 21st April, 1976.

The 24th February, 1977

No. 568-4Lab-76/4952.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s G. William (Fabrication) Pvt. Ltd., Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 19 of 1975 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI RAM CHANDER, WORKMAN AND THE MANAGEMENT OF M/S G. WILLIAM
(FABRICATION) PVT. LTD., MATHURA ROAD, FARIDABAD

AWARD

The workman Shri Ram Chander made an application under section 33-A of the Industrial Disputes Act, 1947 for quashing the illegal order of the management terminating his services, although he termed his submission as application, but according to law it is a complaint. In his complaint the workman stated that he was served with termination letter dated 23rd July, 1975 terminating his services from 31st July, 1975. He was neither charge-sheeted nor enquiry was held and there was a pending reference No. 128 of 1974. He was neither given one months wages nor a notice, nor the management applied for approval of their act of termination of services of the workman.

Notices were issued to the parties who had appeared and contested the case. My learned predecessor framed the following issue on 12th March, 1976.

Whether the termination of services of the workman by the management is justified and in order? If not, to what relief the workman is entitled?

The case was then fixed for the evidence of the management. Next time the representative of the management made a statement on 27th July, 1976 wherein he stated that the management did not apply for approval of their action for terminating the services of the workman pending a reference wherein he was the concerned workman.

In view of the above said statement of the representative of the management, my learned predecessor framed the following issue on 27th July, 1976 and treated the same as preliminary.

Whether the management is legally entitled to establish justification of the termination of the services of the workman in view of the admission made by them that they did not apply for approval of action?

No learned predecessor fixed the case for arguments on the preliminary issue. It seems that the representatives of the parties did not want to lead evidence on the preliminary issue. The issue is purely a legal issue. Hence my learned predecessor fixed the case for arguments on 16th September, 1976. On 16th September, 1976, the parties requested for adjournment. The case was adjourned for their arguments. On the next date of hearing, both the representatives of the parties addressed arguments. Arguments have been heard.

The representative of the management has also placed some letters which they addressed to the workman concerned, although they did not place on the file of this case the replies to these letters sent by the workmen to the management.

The workman's services were terminated on 31st July, 1975 in furtherance to their letter dated 23rd July, 1975. The letter dated 31st July, 1975 served the workman with one months notice with effect from 1st August, 1975 for termination of his services. By this letter the management required the workman to collect his dues on the expiry of the notice period, i.e. after 31st August, 1975. From the perusal of these letters, I find, that the workman was found guilty of misconduct by the management.

From these letters, I find that the workman was a permanent workman. The letter of the management dated 19th May, 1974 reveals that the workman was found sleeping at 11.15 a.m. on 19th May, 1974. This shows that the workman was employed somewhere prior to 19th May, 1974. His services were terminated, vide letter dated 31st July, 1975. Definitely the workman was employed for more than 13 months, and therefore, he was a permanent workman.

The management did not even held any domestic enquiry which is obvious from the facts that he did not place on the file the proceedings, the finding of the enquiry officer and all other things related thereto.

In view of the statement of the representative of the management, it is manifestly clear that the reference was pending at time when the services of the workman concerned was terminated. According to the proviso to section 33(2)(b) the management could not dismiss or discharge the workman unless he either paid one months wages and made the application before the Tribunal for approval of their action of terminating the services. The management did not seek approval of their action of terminating the services of the workman concerned, nor did they make any effort for seeking the said approval.

I, therefore, hold that the management could not terminate the services of the workman concerned legally and their act of termination of the services of the workman was neither justified nor in order.

There was no necessity of adducing any evidence on the point of justifiability of the termination of services of the workman, nor such evidence was possible, as the managements, representative clearly admitted in his statement that they did not apply for seeking approval of their action of termination of the

services of the workman concerned. Thereafter it remained only a question of law. I, therefore, hold that the termination of the services of the workman concerned was neither justifiable nor in order. The workman is entitled to reinstatement with full back wages and continuity of services. I, therefore, submit my award as follows :—

“That the termination of the services of the workman concerned by the management is not justified and is not in order and the workman is entitled to reinstatement with full back wages and continuity of services”

Dated 4th January, 1977.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad

No. 16, dated 12th January, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 12th January, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 703-4Lab-77/4958.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Municipal Committee Faridabad substituted by Faridabad Administration Complex,—*vide* order dated 18th June, 1973.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK.

Reference No. 135 of 1970

between

SHRI MORE LAL WORKMAN AND THE MANAGEMENT OF M/S. MUNICIPAL
COMMITTEE, FARIDABAD SUBSTITUTED BY FARIDABAD ADMINISTRATION
COMPLEX,—*VIDE* ORDER DATED 18TH JUNE, 1973.

AWARD

By order No. 6091-E-Lab-70/22387, dated 31st July, 1970 of the Governor of Haryana, the following dispute between the management of M/s. Municipal Committee Faridabad and its workman Shri More Lal, was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947;

“Whether the termination of services of Shri More Lal was justified and in order? If not, to what relief is he entitled?”

Shri Roshan Lal Sharma, President, General Labour Union NIT, Faridabad, filed a claim statement, in conformity with the notice of demand served by him in that capacity on the management with the allegations that the latter terminated the services of Shri More Lal their workman illegally w.e.f. 13th February, 1965 and that he was entitled to reinstatement with full back wages and continuity of service.

The management pleaded,—*vide* written statement filed by them that the reference was bad in law on the following grounds :—

(a) That the Municipal Committee NIT Faridabad was not an Industry:

(b) That the dispute referred to this Court was an individual dispute and was not an Industrial Dispute;

(c) That Shri More Lal was not a workman within the definition of this term as given in the Industrial Dispute Act ;

- (d) That the terms of reference were vague and indefinite ;
- (e) That the Government having one declined to refer the dispute for adjudication, was not legally competent to refer the same over again and the workman was estopped from raising the dispute ;
- (f) That the services of the workman being terminated on 13th February, 1965, the demand made by him on the management on 10th November, 1967 was belated ;
- (g) That section 2(a) of the I.D. Act providing for reference of individual dispute came into force on 27th November, 1965 much after the termination of services of the workman on 13th February, 1965 and was as such inapplicable to the case.

On facts the management stated that the workman concerned had been appointed as a Mate for a fixed period of three months from 1st January, 1965 to 31st February, 1965 and that his services were terminated on 13th February, 1965 on his committing a misconduct of marking three labourers actually absent, as present, in the register of attendance and that he was subsequently registered as a Contractor with them and that even this contract was terminated on account of his unsound financial position and that all this well indicated that he had no grievance, against the order, dated 13th February, 1965 terminating his services and the notice of demand dated 13th November, 1967 served on the management after about 2½ years was liable to be quashed on this ground as well.

Shri R. L. Sharma in his capacity as President, General Labour Union, NIT, Faridabad controverted the pleas of the management and reiterated the allegations made in the claim statement,—*vide* rejoinder filed by him with the result that the following issues were framed on pleas of the parties,—*vide* order, dated 27th October, 1970 :—

- (1) Whether the reference is bad in law for the reasons given in the written statement ?
- (2) Whether the termination of services of Shri More Lal was justified and in order ? If not, to what relief is he entitled ?

The demand was admittedly raised by Shri Roshal Lal in his capacity as President of the Union. A copy of the order of reference was accordingly sent to the President, General Labour Union Shri Roshan Lal along who continued pursuing the demand till 13th October, 1972 and Shri More Lal workman began appearing in person w.e.f. 15th January, 1973 and continued to do thereafter till 6th January, 1977 when arguments were heard. He made an application with the specific prayer that the dispute treated as a general collective demand. It is thus crystal clear the aforesaid admitted facts that the references made to this Court was under section 10(i) of the I.D. Act in simplicitor, without reference to section 2(A) of that Act relating to individual dispute. This is settled law that such reference in order to be valid must be espoused by a substantial number of workmen of the union of which the workman concerned was a member or substantial number of the workmen of the management served by him. It has now to be seen and found if the workman concerned has been able to establish such an espousal.

Shri More Lal admitted,—*vide* his statement, dated 1st January, 1969 that 94 workmen submitted in writing to the union to take up his case and that he did not recollect if any meeting of the workmen was held in this connection. Shri Roshal Lal Sharma authorised representative admitted,—*vide* his statement, dated 3rd January, 1969 that it was not written in the letter of authority Exhibit W. 2 and W. 3 executed in his favour by the workmen that case of More Lal be taken up. It would thus appear from the admissions of the workman Shri More Lal and his alleged authorised representative Shri Roshan Lal that there was not even a specific authority in writing in favour of the latter either by the former or by a substantial number of workmen of the union entitling him to raise the demand on the management in respect of illegal termination of services of the workman concerned, much less a valid espousal of a substantial number of workmen of such demand. It is settled law that such a reference made generally under section 10 of the Act without espousal of substantial number of workmen is bad in law and liable to be rejected on this ground alone.

Shri More Lal admitted that he was registered as a Contractor with the management soon after the date of termination of his services. He admitted his signatures letters M. 14 and M. 15, dated 23rd November, 1965 and 3rd May, 1967, bearing such an admission. It stands conceded on both sides that the notice of demand served on the management is dated 10th November, 1967 and was served on the management 2½ years after the date of termination of his services and even subsequent to the registration of the workman as a Contractor with them. These facts lead to the conclusion beyond doubt that the workman not only failed to press his claim of reinstatement on the ground of illegal termination of his services but shall be deemed to have given it up. His registration as a Contractor with the management immediately after the termination of his services in other words amounts to a concession on his part of the legality and correctness of the order of termination of his services and the workman

is obviously not entitled to any relief for these reasons as well. I, therefore, in view of the aforesaid findings made by me on broad admissions of the workman himself, do not propose to discuss and decide the other pleas taken by the parties and hold that the reference made to this Court is bad in law for the reasons stated above and the workman is not entitled to any relief.

I accordingly answer the reference while returning the award in these terms.

Dated the 14th January, 1977.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 87, dated 14th January, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 532-4Lab-77/5154.—In pursuance of the provisions of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Haryana Textile, Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 46 of 1974

between

SMT. MUNNI DEVI WORKWOMAN AND THE MANAGEMENT OF M/S HARYANA TEXTILE
ROHTAK
AWARD

This award shall dispose of reference No. 46 of 1974 and application No. 437 of 1973 under section 33-C (2) of the I. D. Act each between Muni Devi and Haryana Textile, Circular Road, Rohtak, as common question of fact and law are involved in both these cases.

By order No. ID/RK/67-F-74/18422—26, dated 3rd July, 1974 of the Governor of Haryana, the following dispute between the management of M/s. Haryana Textile, Circular Road, Rohtak and its work woman Smt. Muni Devi, was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shrimati Muni Devi, was justified and in order? If not, to what relief is she entitled?

The parties put in their appearance in this Court, in response to the usual notices of reference sent to them and filed their pleadings giving rise to the following issues framed,—vide order, dated 3rd December, 1974:—

(1) Whether Smt. Munni Devi, worker concerned has submitted her resignation on 16th February, 1974 and received payment of her dues?

(2) If issue No. 1 is not proved whether the termination of services of Smt. Munni Devi was justified and in order? If not, to what relief is she entitled?

The parties led evidence in support and rebuttal of the issues. They however arrived at a settlement on 3rd January, 1977 when the case was fixed for hearing of arguments. Smt. Munni Devi workwoman and Shri Mohinder Lal Sharma, Proprietor of the management made statement in accordance with the settlement arrived at between them whereby the former received a sum of Rs. 1,300 in cash from the management in consideration of her giving up all claims under the demand leading to the reference and wages and D. A. alleged to have been withheld by the later, and claimed by her by way of an application under section 33-C(2) of the I. D. Act.

It would thus appear that now there is no dispute between the parties requiring adjudication and I hold accordingly while answer the reference in these terms. I dismiss the application brought by the workwoman Munni Devi under section 33-C(2) of the I. D. Act, 1947 for computation in money value of the benefits stated therein as fully satisfied.

Dated 3rd January, 1977.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 41, dated 10th January, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.